Docket No. 6653.36001

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Patent Application Of	:	
Frank Jay Hague	:	Examiner: Weinstein, S.
Serial No. 10/052,084	:	
Filing Date: January 18, 2002	:	Group Art Unit: 1761
"ANIMAL TREAT"	:	

DECLARATION OF FRANK JAY HAGUE

1. My name is Frank Jay Hague. I am over 18 years of age, have never been convicted of a felony, am of sound mind and am competent to make this declaration. I have personal knowledge of the matters set forth in this declaration and they are true and correct.

2. I am the inventor of the subject patent application.

3. I attended Hillsdale Baptist College in Oklahoma for three years and earned an Associate in Arts degree in theology. I have been in the animal skin business for the last twelve years. During that time, I have had experience in raising animals and processing animals for meat and skin products. During that time I also gained experience in producing and marketing animal skin products such as leathers and furs. I raised ostriches and emus and worked with pork processors in adapting their techniques to ostriches and emus. I have worked with slaughterhouses, abattoirs and processing plants in North and South America, in Africa and in Asia to create and market animal products.

4. Five years ago, I entered the pet treat and chew business. As one business venture, I set up an online retail pet product store. In setting up the store, I set up the manufacturing of the products. I also created a large number of the products myself. Most of the new products were made of rawhide and had various shapes and styles. Some of the products were made of pig skin.

5. I spent the first two years in the pet treat and chew business selling real pig ears for pet treats. I set up plants in Spain, China and Brazil. Dogs like pig ears because the ears are mostly flat and are a nice size that the dogs can hold in their mouths and chew on. Products shaped like bones are more difficult for dogs to hold and chew. A pig ear is almost triangular in shape. A dog will start chewing on a corner and hold the opposite side with its front paws. Pig ears are high in palatability to dogs.

6. In spite of dogs liking pig ears, I considered my business selling real pig ears to be commercially unsuccessful. This is because humans buy animal treats. In my experience, animal treat products sell better if the products are appealing to a human. Exhibit A contains several real pig ears used for dog treats.

7. One problem is that real pig ears are susceptible to carrying pathogens such as salmonella. Dogs and their human owners can become sick. The dogs of course eat the contaminated ears. While some dogs eat contaminated ears without becoming ill, other dogs are more vulnerable. Humans can become sick if they handle contaminated ears and fail to wash their hands properly.

8. Another source of contamination of real pig ears is bugs. The ears have fat and flesh, which attract bugs. Bugs infest the ears, rendering the product undesirable for purchase.

9. Another source of contamination is mold. Mold can grow on the ears, again making the product undesirable for purchase. Some pet treat companies apply mold inhibitors to the ears. But, some customers want to buy a natural product without mold inhibitors.

10. Real pig ears suffer from a lack of consistency, making marketing and selling the ears difficult. Real ears may have hair and/or yellow head fat, which detract from the visual appearance of the product. Also, the size of the ears can vary. Some ears are large, while others are smaller. Some ears show blemishes or have been branded with indelible blue ink. Some ears have been tagged. While the tag has been removed, the ears are deformed from the piercing from the tags. The lack of consistency and the presence of blemishes, brands and piercings detract from the look and appeal of the product.

11. Still another problem is the supply of real pig ears. Obviously, each pig can only produce two ears. Ears are a byproduct of the pig industry. That is, pigs or hogs will not be slaughtered solely for their ears. Other products which have a higher value pay a bigger role in determining how many pigs are slaughtered. In some years, the number of pigs being slaughtered drops, leading to a decrease in the supply of ears. This very situation is occurring at the present time, making procurement of real pig ears for the pet treat market very difficult and expensive.

12. Because of all of the problems with providing a real pig ear product that a human customer would buy, I began looking for ways to improve the product so as to make the product more appealing to humans, while still retaining palatability for dogs.

13. I came up with the idea to build a pig ear from pig skin. I quickly realized that a single layer of skin would not make a suitable ear because the ear would be too thin. Several layers of skin however held promise. The problem with using layers of skin was getting the layers to adhere together and stay that way. I had experience with using rolled skin to create pet treat products. An ear is not rolled, but is generally flat instead. In my experience, it is much more difficult to make a flat skin product than a rolled skin product, particularly from pig skin. I spent a month or so developing the artificial ear product. At first, I didn't think the product would ever work. Pig skin is known as not being malleable. It doesn't hold its shape. This is different than rawhide, which does hold it shape. Pig skin is harder to work with than rawhide when it comes to making a pressed product.

14. I first experimented with folding pig skin to achieve the desired four sided shape that looks like a real pig ear. Then, I pressed the folded skin in a mold. The mold added some curvature to the flat piece and also added some ridges. I had problems because when the mold opened after pressing, the edges of the product would loosen and pull apart. After further experimenting, I changed from a mold with a single bottom piece to a mold with several pieces on the bottom, which pieces could move in and out relative to the edges of the artificial ear. I succeeded in making an artificial ear. Exhibit B contains samples of my artificial pig ear.

15. The artificial pig ear has several advantages over real pig ears. The artificial ear is sterilized with heat, thereby eliminating contamination by pathogens, mold and bugs. Product consistency is high as the size and quality can be controlled. The size of the artificial ears is uniform and the ears are free of ink, deformities, blemishes and hair. The artificial ears, being skin, are low in fat. Also, because the skin on one pig can produce 20-40 artificial ears, the supply of artificial ears is not as limited as with real ears.

16. I have read and understand the prior art patents of Ganoe (3,368,528), Lynch (6,033,715), Sherrill (5,673,653), Frudakis (6,165,474), Andersen (6,277,420), Axelrod (5,476,069) and Rodriguez (D357,770). I understand that the Examiner believes Ganoe teaches my invention of folding skin to provide plural layers, except for the type of skin and the shape of the product and that the Examiner believes Lynch teaches my invention of shaping pig skin into shapes that look and simulate real life three-dimensional objects, except for the product being multilayered.

17. None of these patents describe how to make an artificial ear. If they had, they could have saved me the experimenting and trial and error that it took to create the product. Reading Ganoe and Lynch, I cannot learn enough to make my artificial ear invention. I see that Ganoe discusses how to take a piece of skin, fold it and roll it to make a bone or cylinder. At the time I invented the artificial ear, I was already making and selling pig skin twists. A twist is skin that is rolled into a cylinder. The edge of the skin spills around the cylinder to give the appearance of a twist. The artificial ear is not rolled into a cylinder, but is much flatter. Reading Ganoe would not have

helped me make the artificial ear. I see that Lynch discusses how to remove fat from skin and roll the skin to make pet products. Lynch also discusses making chips, which I suppose might be flat. I considered cutting an ear-shaped piece from a single sheet of skin. But that is not my invention. My invention has folded skin that forms several layers. Learning to fold the skin so as to approximate the shape of an ear and then forming the folded skin into an ear shape was not easy and took much experimentation. Lynch also discusses molding ground pig skin. Lynch does not teach me anything about molding pig skin. I have molded ground rawhide into products. These products use trimmings. The rawhide bits are mixed with a rice glue paste to keep it together. Based on my experience, I would not build an artificial ear of ground rawhide because the artificial ear is not thick enough to prevent crumbling. I believe that the product would have to be at least a half inch thick or more to keep from crumbling. Pig skin is even worse because the oil in the skin keeps the bits from sticking together. I have tried molding ground pig skin and have not come up with a product that stays together and won't crumble. I have not seen any ground molded pig skin products on the market. Reading Ganoe and Lynch would not have helped me in coming up with my invention.

18. I see that Sherrill discusses how to fold skin into a rolled-like product, which is like a cylinder. This is different from my folded and flattened invention. I could not find mention of folding in Frudakis. From Axelrod, I learned how to melt rawhide and mold it. This is very different from my invention and I would not have used this information in making my

invention. I see that Andersen discusses how to roll rawhide, even around a filling. These patents would not have helped me to make an artificial ear.

19. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 14, 2004.

Frank Jay Hague

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